

HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No.2305 of 2003

PETITIONERS:

1. S.K. Dumre, son of Madhukar Soni, (Dumre), Aged about 40 years, Occupation: Pharmacist, posted at Bhilai Dispensary, C.S.E.B., Bhilai, District Durg (C.G.)
2. Smt. Anita Dumre, wife of S.K. Dumre, aged about 35 years, Occupation: A.N.M. posted at Bhilai Dispensary, C.S.E.B., Bhilai, District-Durg, (C.G.).

Versus

RESPONDENTS

1. Chhattisgarh State Electricity Board, Through Secretary, C.S.E.B., Raipur, District Raipur (C.G.)
2. Joint Secretary, (P)-II, C.S.E.B., Raipur, District Raipur, (C.G.).
3. Additional Secretary, C.S.E.B., Raipur, District: Raipur, (C.G.).

POST FOR ORDER ON 19 AUGUST 2003

Sd/-
L.C.BHADOO
Judge

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C.S.E.B., Raipur, District
Raipur, (C.G.).

3. Additional Secretary,
C.S.E.B., Raipur,
District: Raipur, (C.G.).

Present: -

Shri Awadh Tripathi, Advocate

For the petitioners.

Shri Sanjay K. Agrawal, Dy. A.G.

For the State / respondents.

ORDER

(Passed on 19th August, 2003)

As per Justice L.C. Bhadoo: -

1. By this writ petition filed under Article 226/227 of the Constitution of India, the petitioners have challenged their transfer order dated 26-7-2003, Annexure-P/1 by which they are

transferred from Bhilai Dispensary to Board's Dispensary, Jagdalpur.

2. The petitioners' case is that petitioner No.1 S.K. Dumre, is working as Pharmacist and petitioner No.2 Smt. Anita Dumre, is working as A.N.M. in Bhilai Dispensary, C.S.E.B., District Durg. Initially, they were employees of M.P.E.B.. At the time of formation of the State of Chhattisgarh they applied for their allocation to the State of Chhattisgarh because they are permanent resident of District Durg. The petitioner No.1 was allocated to the State of Chhattisgarh by the order dated 28-8-2001 and the petitioner No.2 was allocated to the State of Chhattisgarh by the order dated 5-12-2001. The petitioner No.1 was posted at Korba and thereafter transferred to Bhilai. The petitioner No.2 was also posted at Korba, but she was also transferred to Bhilai in the month of July 2002 vide Annexures-P/8 & P/9.
3. Now, within a period of one year they have been transferred to Jagdalpur. They have admitted their child in Indu I.T. School, Bhilai. Their child is also suffering from eye disease and he is being treated at Bhilai. The parents of petitioner No.1 are also resident of Bhilai and the petitioner No.1 is the only son of their parents and at the old age, the petitioner No.1 is required to remain with them.
4. The order dated 19-5-2003, Annexure-P/11 was passed in which it was ordered that three new dispensaries are being established at Bilaspur, Jagdalpur and Raipur and the medical officers and the

staff will be deployed from Korba East and Korba West Hospitals.

Now, contrary to that order, the petitioners have been transferred to Jagdalpur, therefore, this order be quashed.

5. In the rejoinder, it is stated that the petitioners are not surplus. Moreover, the persons who were posted at Bhilai in the year 1985-86 are still continuing and the petitioners have been transferred within a period of one year.
6. On the other hand, reply has been filed on behalf of the respondents in which it has been stated that the petitioners had not worked at Korba. They were on leave. They joined only at Bhilai. Since three new dispensaries have been created and they are to be made functional from 15th August 2003, therefore, the surplus staff has been transferred to all the three new dispensaries. The petitioners were surplus at Bhilai, therefore, they have been transferred to Jagdalpur and that too on the ground of administrative exigencies as the new dispensaries are to be made functional from 15th August 2003 and they have been relieved on 2nd August 2003.
7. I have heard the learned counsel for the parties.
8. The petitioners have raised the ground that they have hardly completed one year at the present place of posting. One pharmacist Mr. Sanjay Gade is working in Bhilai Dispensary since 1989 and one Smt. Usha Kundu is working as A.N.M. at Bhilai since 1985. They could have been transferred to Jagdalpur.
9. As has been held by the Hon'ble Apex Court that the Court can interfere in the matter of transfer of officials/officers only

when the transfers are made on malafide grounds or against the statutory provisions. Both the grounds have not been raised in this case. The only inconvenience and difficulty has been put forwarded by the petitioners is that they have completed only one year and the other persons who are working at Bhilai Dispensary since last 18 years should have been transferred and moreover, they have admitted their child in the school and the parents of the petitioner No.1 are old aged and his presence is required with them in order to attend their needs.

10. The petitioners should have raised all these difficulties before the respondents by way of representation which they have not raised and it is for the respondents to consider the case of the petitioners in the light of the points raised in this writ petition. Since they have not made any representation to the respondents, it is, therefore, directed that the petitioners shall make their representation narrating all the points which they have raised before this Court within a period of 10 days from the date of receipt of copy of this order and the respondents are directed to consider the representation of the petitioners and take appropriate decision within a period of four weeks from the date of receipt of the representation in an objective manner.
11. The writ petition is disposed of accordingly.
12. Consequently, M.(W.)P. No. 2108/2003 & I.A. No. 7093/2003 also stand disposed of.

Sd/-
L.C.BHADOO
Judge